

### **63H-1-101. Title.**

This chapter is known as the "Military Installation Development Authority Act."

Enacted by Chapter 23, 2007 General Session

### **63H-1-102. Definitions.**

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which tax increment will be collected, as shown upon the assessment roll last equalized before the year in which the authority issues a building permit for a building within that portion of the project area.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the tax increment it is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) (a) "Development" means an activity occurring on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

(9) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(10) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the U.S. Department of Defense or the Utah National Guard.

(11) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(12) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(b)(ii); and

(c) receives as dedicated tax collections.

(13) "Municipal tax" means a municipal energy tax, MIDA energy tax, telecommunications tax, transient room tax, or resort communities tax.

(14) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(15) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected tax increment expected to be generated within the project area;

(c) the amount of the tax increment expected to be shared with other taxing entities;

(d) the amount of the tax increment expected to be used to implement the project area plan, including the estimated amount of the tax increment to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the tax increment expected to be used to cover the cost of administering the project area plan;

(f) if the tax increment is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the tax increment will be collected; or

(B) a legal description of the portion of the project area from which the tax increment will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the tax increment; and

(g) for property that the authority owns or leases and expects to sell or

sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(16) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(17) (a) "Property tax" includes a privilege tax, except as described in Subsection (17)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value attributable to a portion of a facility leased to the military for a calendar year when:

(i) a lessee of military land has constructed a facility on the military land that is part of a project area;

(ii) the lessee leases space in the facility to the military for the entire calendar year; and

(iii) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses.

(18) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

(19) (a) "Publicly owned infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that benefit the public and are:

(i) publicly owned by the military, the authority, or another public entity;

(ii) owned by a utility; or

(iii) publicly maintained or operated by the military, the authority, or another public entity.

(b) "Publicly owned infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(20) "Remaining municipal services revenue" means municipal services revenue that the authority has not spent during its fiscal year for municipal services as provided in Subsection 63H-1-503(1).

(21) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(22) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

(23) "Tax increment" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the tax increment is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(24) "Taxing entity" means a public entity that levies a tax on property within a project area.

(25) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(26) "Transient room tax" means a tax under Section 59-12-352.

Amended by Chapter 183, 2014 General Session

Amended by Chapter 270, 2014 General Session

**63H-1-201. Creation of military installation development authority -- Status and powers of authority -- Limitation.**

(1) There is created a military installation development authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of military land in a project area;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

(a) as provided in this chapter, facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area;

(b) sue and be sued;

(c) enter into contracts generally;

(d) buy, obtain an option upon, or otherwise acquire any interest in real or personal property:

(i) in a project area; or

(ii) outside a project area for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor:

(i) in a project area; or

(ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;

(g) provide for the development of land within a project area under one or more contracts;

(h) exercise powers and perform functions under a contract, as authorized in the contract;

(i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;

(j) receive tax increment and other taxes and fees as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of

the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) enter into a development agreement with a developer of land within a project area;

(q) enter into an agreement with a political subdivision of the state under which the political subdivision provides one or more municipal services within a project area;

(r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;

(s) provide for or finance an energy efficiency upgrade or a renewable energy system, as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act;

(t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform; and

(u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:

(i) provides law enforcement services only to military land within a project area; and

(ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state.

(4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

Amended by Chapter 246, 2013 General Session

**63H-1-202. Applicability of other law.**

(1) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107,

63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) (a) The definitions in Section 57-8-3 apply to this Subsection (3).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act:

(i) if the military is the owner of land on which a condominium project is constructed, it is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit is owned by the authority and leased to the military for \$1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act; and

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit.

Amended by Chapter 183, 2014 General Session

**63H-1-203. Levy of a municipal tax -- Direct tax payment to MIDA.**

(1) A levy of a municipal energy tax, MIDA energy tax, telecommunications tax, transient room tax, or resort communities tax, including an increase in the applicable tax rate, requires the affirmative vote of:

(a) the authority board; and

(b) a majority of all elected members of the authority board.

(2) If the authority board levies a municipal energy tax, a consumer who acquires taxable energy shall pay the tax directly to the authority on a monthly basis if the consumer's energy supplier is not required under federal law to collect the tax in the manner described in Section 10-1-307.

Amended by Chapter 362, 2013 General Session

**63H-1-204. MIDA energy tax.**

(1) By ordinance, an authority board may levy a MIDA energy tax, within a project area, on an energy supplier as defined in Section 10-1-303.

(2) The maximum rate of the MIDA energy tax is 6% of the delivered value as defined in Section 10-1-303, except that delivered value does not include the amount of a tax paid under this section.

(3) (a) An energy supplier may recover an amount equal to the MIDA energy tax from its customers, if the energy supplier includes the amount as a separate billing line item.

(b) The MIDA energy tax levied under this section is in addition to the rate approved by the Public Service Commission and charged to the customer.

(4) If the authority has levied a municipal energy tax in the project area, the MIDA energy tax paid by a customer is reduced by any municipal energy tax paid by

that customer on the same delivered value.

(5) (a) The MIDA energy tax is payable by the energy supplier to MIDA on a monthly basis as described by the ordinance levying the tax.

(b) The ordinance shall allow the energy supplier to retain 1% of the tax remittance each month to offset the energy supplier's costs of collecting and remitting the tax.

Enacted by Chapter 362, 2013 General Session

**63H-1-301. Authority board -- Delegation of power.**

(1) The authority shall be governed by a board which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.

(2) All powers of the authority are exercised through the board.

(3) The board may by resolution delegate powers to authority staff.

Amended by Chapter 92, 2009 General Session

**63H-1-302. Number of board members -- Appointment.**

(1) The authority's board shall consist of seven members.

(2) Five members of the board shall be appointed by the governor as follows:

(a) one member shall be appointed who is interested in supporting military efforts in the state;

(b) subject to Subsection (4)(d), three members shall be appointed, each of whom is a mayor or member of the legislative body of a municipality or county that is adjacent or in close proximity to a project area or proposed project area; and

(c) one member shall be appointed from the executive branch or a state agency that is involved with military issues.

(3) The president of the Senate and the speaker of the House of Representatives shall each appoint one board member.

(4) (a) Each vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) Each person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(c) If a mayor or member of a legislative body appointed under Subsection (2)(b) leaves office as mayor or a member of the legislative body, a vacancy on the board occurs and the governor shall appoint another mayor or member of a legislative body, as provided in Subsection (2)(b), to fill the vacancy.

(d) If there are more than three project areas located in different counties or municipalities, at the expiration of a member's term who is appointed under Subsection (2)(b), the governor shall appoint:

(i) a mayor of a municipality or county that:

(A) is adjacent to or in close proximity to a project area; and

(B) is not already represented on the board; or

(ii) a member of a legislative body of a municipality or county that:

- (A) is adjacent to or in close proximity to a project area; and
- (B) is not already represented on the board.
- (e) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.
- (5) The authority may:
  - (a) appoint nonvoting members of the board; and
  - (b) set terms for nonvoting members appointed under Subsection (5)(a).

Amended by Chapter 362, 2013 General Session

**63H-1-303. Term of board members.**

- (1) The term of board members is four years, except that the term of the members of the initial board shall be staggered so that the term of approximately half the board members expires every two years.
- (2) Each board member shall serve until a successor is duly appointed and qualified.

Amended by Chapter 92, 2009 General Session

**63H-1-401. Preparation of project area plan -- Required contents of project area plan.**

- (1) (a) The authority board shall adopt a project area plan as provided in this part.
- (b) In order to adopt a project area plan, the authority board shall:
  - (i) prepare a draft project area plan;
  - (ii) give notice as required under Subsection 63H-1-402(2);
  - (iii) hold at least one public meeting, as required under Subsection 63H-1-402(1); and
  - (iv) after holding at least one public meeting and subject to Subsection (1)(c), adopt the draft project area plan as the project area plan.
- (c) Before adopting a draft project area plan as the project area plan, the authority board may make modifications to the draft project area plan that the board considers necessary or appropriate.
- (d) (i) A lease or development agreement that the authority enters before the creation of a project area shall provide that the board is not required to create a project area.
- (ii) An authority may not be required to pay any amount or incur any loss or penalty for the board's failure to create a project area.
- (2) Each project area plan and draft project area plan shall contain:
  - (a) a legal description of the boundary of the project area that is the subject of the project area plan;
  - (b) the authority's purposes and intent with respect to the project area; and
  - (c) the board's findings and determination that:

- (i) there is a need to effectuate a public purpose;
- (ii) there is a public benefit to the proposed development project;
- (iii) it is economically sound and feasible to adopt and carry out the project area plan; and
- (iv) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.
- (3) A project area described in a project area plan:
  - (a) shall include military land; and
  - (b) may include public or private land, whether or not it is contiguous to military land, if:
    - (i) the legislative body of the county in which the public or private land is located, if the public land or private land is located in an unincorporated county, passes a resolution consenting to the inclusion of the land in the project area;
    - (ii) the legislative body of an included municipality passes a resolution consenting to the inclusion of the land in the project area; and
    - (iii) the owner of the public or private land consents to the inclusion of the land in the project area.

Amended by Chapter 80, 2012 General Session

**63H-1-402. Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.**

- (1) The authority board shall hold at least one public meeting to consider and discuss the draft project area plan.
- (2) At least 10 days before holding a public meeting under Subsection (1), the authority board shall give notice of the public meeting to:
  - (a) a taxing entity; and
  - (b) a municipality that is located within one-half mile of the proposed project area.
- (3) Following consideration and discussion of the project area plan, the board may adopt the draft project area plan as the project area plan.

Amended by Chapter 9, 2010 General Session

**63H-1-403. Notice of project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.**

- (1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal notice:
  - (a) in a newspaper of general circulation within or near the project area; and
  - (b) as required by Section 45-1-101.
- (2) Each notice under Subsection (1) shall include:
  - (a) the board resolution adopting the project area plan or a summary of the resolution; and
  - (b) a statement that the project area plan is available for general public

inspection and the hours for inspection.

(3) The project area plan shall become effective on the date of publication of the notice.

(4) The authority shall make the adopted project area plan available to the general public at its offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Automated Geographic Reference Center created in Section 63F-1-506;  
and

(c) the assessor and recorder of each county where the project area is located.

Amended by Chapter 362, 2013 General Session

**63H-1-403.5. Amendment to a project area plan.**

(1) The authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.

(2) The provisions of this part apply to the authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.

Enacted by Chapter 120, 2008 General Session

**63H-1-405. Project area budget.**

(1) Before the authority may receive or use tax increment, the authority board shall prepare and adopt a project area budget.

(2) The authority board may amend an adopted project area budget as and when the authority board considers it appropriate.

Enacted by Chapter 92, 2009 General Session

**63H-1-501. Authority receipt and use of tax increment -- Distribution of tax increment.**

(1) (a) The authority may:

(i) subject to Subsection (1)(b), receive up to 75% of the tax increment for up to 25 years, as provided in this part; and

(ii) use the tax increment during and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i) shall begin on the day on which the authority receives the first tax increment from that parcel.

(2) Improvements on a parcel within a project area become subject to property

tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.

(3) Each county that collects property tax on property within a project area shall pay and distribute to the authority the tax increment and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

(4) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to tax increment.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to tax increment.

Amended by Chapter 183, 2014 General Session

**63H-1-502. Allowable uses of tax increment and other funds.**

(1) Other than municipal services revenue, the authority may use tax increment and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) for administrative, overhead, legal, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the tax increment or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of publicly owned infrastructure and improvements within the project area from which the tax increment funds were collected;

(e) to pay the cost of the installation of publicly owned infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:

(i) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and

(ii) for a passenger ropeway, at least one end of the ropeway is located within the project area; and

(f) to pay the principal and interest on bonds issued by the authority.

(2) The authority may use revenue generated from the operation of publicly owned infrastructure operated by the authority or improvements operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) For purposes of Subsection (1), the authority may use:

(a) tax revenues received under Subsection 59-12-205(2)(b)(ii);

(b) resort communities tax revenues generated from a project area that contains private land; and

(c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated.

(4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

Amended by Chapter 362, 2013 General Session

**63H-1-503. Use of municipal services revenue.**

(1) The authority may use municipal services revenue to pay for:

(a) administrative, overhead, legal, and other operating expenses of the authority; and

(b) municipal services within the project area from which the revenue was collected.

(2) Unless otherwise provided by agreement between the authority and each county and municipality levying a property tax on property within a project area, the authority shall distribute any remaining municipal services revenue equally among all counties and municipalities that levy a property tax on property within a project area.

Enacted by Chapter 92, 2009 General Session

**63H-1-504. Authority funds nonlapsing.**

All funds received by the authority are nonlapsing.

Enacted by Chapter 9, 2010 General Session

**63H-1-601. Resolution authorizing issuance of authority bonds -- Characteristics of bonds.**

(1) The authority may not issue bonds under this part unless the authority board first adopts a resolution authorizing their issuance.

(2) (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) in a newspaper having general circulation in the authority's boundaries; and

(b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of

bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

- (a) the legality of the resolution or proceeding;
- (b) any bonds that may be authorized by the resolution or proceeding; or
- (c) any provisions made for the security and payment of the bonds.

(6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

Amended by Chapter 234, 2011 General Session

**63H-1-602. Sources from which bonds may be made payable -- Authority powers regarding bonds.**

(1) The principal and interest on bonds issued by the authority may be made payable from:

- (a) the income and revenues of the projects financed with the proceeds of the bonds;
- (b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;
- (c) the income, proceeds, revenues, property, and funds the authority derives from or holds in connection with its undertaking and carrying out development of a project area;
- (d) tax increment funds;
- (e) authority revenues generally;
- (f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the development of military land; or
- (g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).

(2) In connection with the issuance of authority bonds, the authority may:

- (a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;
- (b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and
- (c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Amended by Chapter 9, 2010 General Session

**63H-1-603. Authority to purchase agency bonds.**

(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an authority under this part with funds owned or controlled by the purchaser.

(2) Nothing in this section may be construed to relieve a purchaser of authority bonds of any duty to exercise reasonable care in selecting securities.

Enacted by Chapter 23, 2007 General Session

**63H-1-604. Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.**

(1) A member of the authority board or other person executing an authority bond is not liable personally on the bond.

(2) (a) A bond issued by the authority is not a general obligation or liability of the state or any of its political subdivisions and does not constitute a charge against their general credit or taxing powers.

(b) A bond issued by the authority is not payable out of any funds or properties other than those of the authority.

(c) The community, the state, and its political subdivisions may not be liable on a bond issued by the authority.

(d) A bond issued by the authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

(3) A bond issued by the authority under this part is fully negotiable.

Enacted by Chapter 23, 2007 General Session

**63H-1-605. Obligee rights -- Board may confer other rights.**

(1) In addition to all other rights that are conferred on an obligee of a bond issued by the authority under this part and subject to contractual restrictions binding on the obligee, an obligee may:

(a) by mandamus, suit, action, or other proceeding, compel an authority and its board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to carry out the covenants and agreements of the authority and to fulfill all duties imposed on the authority by this part; and

(b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2) (a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, an authority board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.

(b) (i) The rights that the board may confer under Subsection (2)(a) are the rights to:

(A) cause possession of all or part of a development project to be surrendered

to an obligee;

(B) obtain the appointment of a receiver of all or part of an authority's development project and of the rents and profits from it; and

(C) require the authority and its board and employees to account as if the authority and the board and employees were the trustees of an express trust.

(ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:

(A) may enter and take possession of the development project or any part of it, operate and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it after the receiver's appointment; and

(B) shall keep money collected as receiver for the authority in separate accounts and apply it pursuant to the authority obligations as the court directs.

Enacted by Chapter 23, 2007 General Session

**63H-1-606. Bonds exempt from taxes -- Authority may purchase its own bonds.**

(1) A bond issued by the authority under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.

(2) The authority may purchase its own bonds at a price that its board determines.

(3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on its rents, fees, grants, properties, or revenues.

Enacted by Chapter 23, 2007 General Session

**63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.**

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by:

(i) publishing notice:

(A) at least once in a newspaper of general circulation within the authority boundaries, one week before the public hearing; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for at least one week immediately before the public hearing; or

(ii) if there is no newspaper of general circulation within the authority

boundaries as described in Subsection (4)(a)(i)(A), posting a notice of the public hearing in at least three public places within the authority boundaries.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of the county in which the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects tax increment.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Amended by Chapter 90, 2010 General Session

**63H-1-702. Amending the authority annual budget.**

(1) The authority board may by resolution amend an annual authority budget.

(2) An amendment of the annual authority budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.

(3) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Enacted by Chapter 23, 2007 General Session

**63H-1-703. Authority report.**

(1) (a) On or before November 1 of each year, the authority shall prepare and file a report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects tax increment.

(b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

(2) Each report under Subsection (1) shall contain:

(a) an estimate of the tax increment to be paid to the authority for the calendar year ending December 31; and

(b) an estimate of the tax increment to be paid to the authority for the calendar year beginning the next January 1.

Enacted by Chapter 23, 2007 General Session

**63H-1-704. Audit requirements.**

The authority shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 23, 2007 General Session

**63H-1-705. Audit report.**

(1) The authority shall, within 180 days after the end of the authority's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects tax increment.

(2) Each audit report under Subsection (1) shall include:

- (a) the tax increment collected by the authority for each project area;
- (b) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the authority's project areas; and
- (c) the actual amount expended for:
  - (i) acquisition of property;
  - (ii) site improvements or site preparation costs;
  - (iii) installation of public utilities or other public improvements; and
  - (iv) administrative costs of the authority.

Enacted by Chapter 23, 2007 General Session

**63H-1-706. Authority chief financial officer is a public treasurer -- Certain authority funds are public funds.**

(1) The authority's chief financial officer:

- (a) is a public treasurer, as defined in Section 51-7-3; and
- (b) shall invest the authority funds specified in Subsection (2) as provided in that subsection.

(2) Notwithstanding Subsection 63E-2-110(2)(a), tax increment funds, municipal services revenue, and appropriations that the authority receives from the state:

- (a) are public funds; and
- (b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Enacted by Chapter 92, 2009 General Session

**63H-1-801. Dissolution of authority -- Restrictions -- Filing copy of ordinance -- Authority records -- Dissolution expenses.**

(1) The authority may not be dissolved unless the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

- (2) Upon the dissolution of the authority:
  - (a) the Governor's Office of Economic Development shall publish a notice of dissolution:
    - (i) in a newspaper of general circulation in the county in which the dissolved authority is located; and
    - (ii) as required in Section 45-1-101; and
  - (b) all title to property owned by the authority vests in the state.
- (3) The books, documents, records, papers, and seal of each dissolved authority shall be deposited for safekeeping and reference with the state auditor.
- (4) The authority shall pay all expenses of the deactivation and dissolution.

Amended by Chapter 92, 2009 General Session

Amended by Chapter 388, 2009 General Session